

# **State of Alaska FY2010 Governor's Operating Budget**

## **Department of Commerce, Community, and Economic Development Banking and Securities RDU/Component Budget Summary**

**RDU/Component: Banking and Securities***(There is only one component in this RDU. To reduce duplicate information, we did not print a separate RDU section.)***Contribution to Department's Mission**

Protect consumers of financial services and maintain safe and sound state financial systems.

**Core Services**

- Register securities and license and examine those who sell and provide advice on securities.
- Charter, license and examine state financial institutions.
- Require accurate disclosure of election materials from Alaska Native Claims Settlement Act (ANCSA) corporations and shareholders and investigate proxy-related complaints.

End Result	Strategies to Achieve End Result
<b>A: ANCSA proxy and elections materials are filed.</b>  <u>Target #1:</u> Receive filings from all ANCSA regional and village corporations that are statutorily required to file with the Division. <u>Status #1:</u> Met target. The Division received filings from all ANCSA corporations which were required to file.	<b>A1: Investigate complaints that ANCSA proxy and election-related materials do not comply with statute and regulations.</b>  <u>Target #1:</u> Enforce compliance with the requirements under statute and regulations regarding ANCSA proxy and election-related materials. <u>Status #1:</u> Met target. Although the number of complaints increased, 100% of the complaints received were investigated and compliance achieved.
End Result	Strategies to Achieve End Result
<b>B: Protect Alaska investors.</b>  <u>Target #1:</u> Enforce compliance with the Alaska Securities Act by all regulated broker-dealers and investment advisors. <u>Status #1:</u> Met target. Enforcement actions against registered broker-dealers increased in FY 2008, demonstrating expanded enforcement activity for compliance with the Alaska Securities Act.	<b>B1: Examine investment advisors and broker-dealers.</b>  <u>Target #1:</u> 100 percent of investment advisors are examined within a two-year period. <u>Status #1:</u> Met target. A sufficient number of advisors were examined this year to achieve target of 100 percent examined within a two-year period.  <u>Target #2:</u> Examine broker-dealers on a for-cause basis. <u>Status #2:</u> Met target. Two complaints were lodged in FY08, and examinations will occur after investigations upon showing of cause are completed.  <b>B2: Register securities and those who sell securities.</b>  <u>Target #1:</u> Register securities offerings that are in compliance. <u>Status #1:</u> Met target. Number of securities offerings which were registered by the Division increased slightly

	<p>in FY08, and regulatory scrutiny resulted in an increased number of denied applications.</p> <p><u>Target #2:</u> Register sellers of securities that are in compliance.</p> <p><u>Status #2:</u> Met target of registering sellers of securities that were in compliance. Increased scrutiny resulted in a decrease in the percentage of sellers being approved in FY08.</p>
End Result	Strategies to Achieve End Result
<p><b>C: Protect Alaska borrowers.</b></p> <p><u>Target #1:</u> Ensure all violations cited during examinations of financial institutions are resolved.</p> <p><u>Status #1:</u> Met target. No enforcement actions issued in FY08 due to unresolved violations.</p>	<p><b>C1: Take enforcement action against unlicensed financial institutions.</b></p> <p><u>Target #1:</u> Identify unlicensed financial institutions and payday lenders.</p> <p><u>Status #1:</u> Met target. There were no unlicensed financial institutions; however, a number of unlicensed payday lenders (non-depository lenders) were identified, and investigations are in process.</p>
End Result	Strategies to Achieve End Result
<p><b>D: Safe and sound state financial institutions.</b></p> <p><u>Target #1:</u> No state banks in receivership.</p> <p><u>Status #1:</u> Met target. No state banks in receivership.</p>	<p><b>D1: Examine state financial institutions.</b></p> <p><u>Target #1:</u> Complete 100 percent of examinations on or before statutory deadlines.</p> <p><u>Status #1:</u> Target not met. 100% of state chartered bank and credit union exams and payday lender exams were completed on time in FY08. The percentages of on-time examinations in other categories increased over FY07.</p>

Major Activities to Advance Strategies	
<ul style="list-style-type: none"> <li>• Conduct examinations of licensed financial institutions and financial service businesses.</li> <li>• Coordinate examinations of depository institutions with the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration.</li> <li>• Prepare the Division's annual Directory of Banks and Financial Institutions.</li> <li>• Maintain accreditation with the Conference of State Bank Supervisors (CSBS).</li> <li>• Require licensed financial institutions to comply with statutes and take enforcement action against unlicensed financial services companies.</li> <li>• Investigate consumer complaints concerning state chartered or licensed financial institutions.</li> <li>• Service and respond to consumers' concerns and investigate complaints against non-depository lenders and financial services businesses.</li> <li>• License and examine mortgage lenders, brokers and originators.</li> <li>• License and examine state supervised investment</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct examinations of state investment advisors every 18 months to ensure compliance.</li> <li>• Process broker/dealer applications for registration in Alaska and complete background checks with the Central Registration Depository (CRD).</li> <li>• Register securities, broker/dealers, and process requests for securities exemptions.</li> <li>• Supervise the activities of registered broker/dealers, investment advisors, and registered investment representatives that are licensed in the State.</li> <li>• Provide educational outreach to the public with particular emphasis on seniors and youth.</li> <li>• Conduct seminars for Alaska consumers regarding investment accounts, fraud, choosing an investment professional, and other topics.</li> <li>• Educate the public on ways to avoid becoming a victim of financial fraud.</li> <li>• Provide educational programs on personal finances and money management; and work with outreach groups, such as AARP, to publicize these events.</li> </ul>

### Major Activities to Advance Strategies

- advisors.
- Conduct for-cause examinations of broker/dealers, and respond to consumer complaints regarding inappropriate sales of securities.
- Provide oversight of ANCSA proxies and materials received by the Division.
- Investigate complaints concerning material misstatements in proxies and related materials for certain ANCSA corporations and their shareholders.

### FY2010 Resources Allocated to Achieve Results

**FY2010 Component Budget: \$3,287,400**

**Personnel:**

Full time	22
Part time	0
<b>Total</b>	<b>22</b>

## Performance

### A: Result - ANCSA proxy and elections materials are filed.

**Target #1:** Receive filings from all ANCSA regional and village corporations that are statutorily required to file with the Division.

**Status #1:** Met target. The Division received filings from all ANCSA corporations which were required to file.

#### Percent of Filings

Year	YTD Total
2008	100%
2007	100%

**Analysis of results and challenges:** Of the 69 ANCSA regional and village corporations that file, all required filings were received.

### A1: Strategy - Investigate complaints that ANCSA proxy and election-related materials do not comply with statute and regulations.

**Target #1:** Enforce compliance with the requirements under statute and regulations regarding ANCSA proxy and election-related materials.

**Status #1:** Met target. Although the number of complaints increased, 100% of the complaints received were investigated and compliance achieved.

Year	YTD Total
2008	35
2007	27

**Analysis of results and challenges:** Of the 69 ANCSA regional and village corporations that file, the Division also receives filings from independent candidates running for seats on the corporation boards. The Division received 35 complaints in FY08 regarding the statutory or regulatory compliance of the filings.

**B: Result - Protect Alaska investors.**

**Target #1:** Enforce compliance with the Alaska Securities Act by all regulated broker-dealers and investment advisors.

**Status #1:** Met target. Enforcement actions against registered broker-dealers increased in FY 2008, demonstrating expanded enforcement activity for compliance with the Alaska Securities Act.

**Number of enforcement actions/administrative orders against regulated firms**

Fiscal Year	YTD Total
FY 2008	11
FY 2007	0
FY 2006	2

**Analysis of results and challenges:** Of the 257 registered broker-dealer firms and the 29 registered state investment advisors, 11 enforcement actions were initiated.

**B1: Strategy - Examine investment advisors and broker-dealers.**

**Target #1:** 100 percent of investment advisors are examined within a two-year period.

**Status #1:** Met target. A sufficient number of advisors were examined this year to achieve target of 100 percent examined within a two-year period.

**Percent of examinations conducted over a two-year period.**

Fiscal Year	YTD Total
FY 2008	100%
FY 2007	100%
FY 2006	20%

**Analysis of results and challenges:** In FY08-09, all required examinations have been scheduled meeting the examination cycle.

**Target #2:** Examine broker-dealers on a for-cause basis.

**Status #2:** Met target. Two complaints were lodged in FY08, and examinations will occur after investigations upon showing of cause are completed.

**Number of for-cause examinations**

Year	YTD Total
2008	0
2007	0

**Analysis of results and challenges:** Two complaints received in FY08 are being processed by Securities, and will most likely trigger examinations for cause after the complaint investigations have been resolved.

**B2: Strategy - Register securities and those who sell securities.**

**Target #1:** Register securities offerings that are in compliance.

**Status #1:** Met target. Number of securities offerings which were registered by the Division increased slightly in FY08, and regulatory scrutiny resulted in an increased number of denied applications.

**Percent of securities offerings registered.**

Fiscal Year	YTD Total
FY 2008	92%
FY 2007	91%
FY 2006	96%

**Analysis of results and challenges:** Of the 67 applications received to register securities offerings, 62 were found compliant and were registered and 5 were denied approval.

**Target #2:** Register sellers of securities that are in compliance.

**Status #2:** Met target of registering sellers of securities that were in compliance. Increased scrutiny resulted in a decrease in the percentage of sellers being approved in FY08.

**Percent of sellers registered.**

Fiscal Year	YTD Total
FY 2008	88%
FY 2007	99%
FY 2006	99%

**Analysis of results and challenges:** The number of FY08 applications nearly tripled over FY07. Of the 6,070 applications received, 5,425 sellers were found compliant and were registered; 645 sellers were not compliant and were denied registration, compared with 11 denials in FY07. The reduction in the percentage of sellers being approved is the result of increased scrutiny.

**C: Result - Protect Alaska borrowers.**

**Target #1:** Ensure all violations cited during examinations of financial institutions are resolved.

**Status #1:** Met target. No enforcement actions issued in FY08 due to unresolved violations.

**Enforcement actions.**

Fiscal Year	YTD Total
FY 2008	0
FY 2007	1
FY 2006	0

**Analysis of results and challenges:** No enforcement actions were issued, demonstrating that regulated financial institutions are generally willing and able to resolve any identified violations.

**C1: Strategy - Take enforcement action against unlicensed financial institutions.**

**Target #1:** Identify unlicensed financial institutions and payday lenders.

**Status #1:** Met target. There were no unlicensed financial institutions; however, a number of unlicensed payday lenders (non-depository lenders) were identified, and investigations are in process.

**Number of unlicensed financial institutions**

Fiscal Year	YTD Total
FY 2008	15
FY 2007	1
FY 2006	3

**Analysis of results and challenges:** Fifteen unlicensed payday lenders were identified. Of these, twelve

investigations are in process. No enforcement actions were taken in FY08.

## D: Result - Safe and sound state financial institutions.

**Target #1:** No state banks in receivership.

**Status #1:** Met target. No state banks in receivership.

### State banks in receivership.

Fiscal Year	YTD Total
FY 2008	0
FY 2007	0
FY 2006	0

**Analysis of results and challenges:** No state banks are in receivership, an indicator of safe and sound state financial institutions.

## D1: Strategy - Examine state financial institutions.

**Target #1:** Complete 100 percent of examinations on or before statutory deadlines.

**Status #1:** Target not met. 100% of state chartered bank and credit union exams and payday lender exams were completed on time in FY08. The percentages of on-time examinations in other categories increased over FY07.

### Exams completed on time.

Fiscal Year	Banks/Credit Unions	Small Loan Company	Premium Finance Company	Payday Lender
FY 2008	100%	100%	29%	100%
FY 2007	100%	33%	22%	54%

**Analysis of results and challenges:** 100% of all bank and credit union exams due in FY08 were completed on time.

Seven of eight licensed small loan companies have relinquished their state licenses; the examination of the remaining licensee is current.

Five out of seven premium finance exams are past due.

Twenty-five examinations of payday lenders were conducted in FY08; all examinations are current.

## Key Component Challenges

### Computer system upgrades

Recent Securities and Exchange Commission (SEC) initiatives require states to move toward electronic processing of registrations, filings, and other documents currently in paper format, including payment and receipt of fees. The Division must undertake significant IT development projects in order to implement the electronic changes and modernization dictated by the SEC.

- The Division must upgrade its IT systems. The following systems require replacement: (a) STAR, a commercial off-the-shelf (COTS) system designed to track securities data, which currently requires daily manual intervention to keep it running. This system is at risk of stopping altogether before a replacement system can be developed; (b) the ANCSA system which was developed in Microsoft access and has very limited capabilities; (c) the Banking system, which was developed in the 1990s using non-standard technologies, and which has limited capabilities that make tracking and enforcement time consuming for staff; and (d) the mortgage licensing system, which must interface with the federally mandated National Mortgage Licensing System (NMLS) to receive, review, and approve applications for mortgage originators and loan officers.

- The Division is also working to develop an imaging system. The Division currently stores most documentation in a hardcopy format. Replacing all hardcopy documentation with digitized images would streamline workflow, increase accessibility to documents and eliminate the cost of handling and storing paper. The Division's staff works in both Juneau and Anchorage. This system will allow immediate sharing of all documents in both locations.
- The Division, in an effort to be more responsive to ANCSA shareholders, is seeking to contract with a vendor to have all the ANCSA records scanned into a format that is publishable on CD-ROM for distribution to all libraries in Alaska. The documents would be scanned in a manner to follow the ALECSYS Infobase style format and give an archive of all ANCSA corporation filings, and all private proxy solicitations. The need for this project is substantial as it allows the Division to reach out to communities across Alaska. After the archived information has been scanned, the Division would be able to maintain all new information in an electronic format and would change the statute to permit electronic filing of all ANCSA related documents.

#### Legal Costs

The funding received as one-time funding will be needed in the future for several reasons. First, the Division continues to investigate alleged or suspected violations of the statutes under its jurisdiction. Resolving these complaints in a timely manner is a priority and will likely include closure or referrals for administrative or legal action.

Since February of this year, when the Auction Rate Securities market collapsed, Banking has received written complaints totaling over \$117 million from Alaskan investors. The Attorney General's office is providing legal advice in these matters. Many of the complaints are from institutional investors and will not be addressed in the current settlements being negotiated with investment firms by the other lead states in global settlements.

Banking will be working with the Legislature to adopt legislation bringing Alaska statutes and regulations in line with the Uniform Securities Act (USA) of 2002. This much needed legislation will, like the USA of 2002, provide stronger enforcement statutes. The Attorney General's office will provide assistance.

The Division will need to address the securities statutes and regulations which affect ANCSA corporation proxies and materials filed with the Division. The Division will likely propose that ANCSA-related statutes within the Alaska Securities Act be moved to a separate chapter, and the regulations will need to be revised. This will require assistance from the Attorney General's office.

It is expected that the current financial crises will spur investor scams and litigation of all kinds. States' securities divisions across the country are engaged proactively to warn and educate investors. We also need to be ready to sanction and prosecute those who break the law.

The Division requires the advice of the Attorney General's office for ANCSA proxy complaints and investigations, the extent of which is not expected to decrease for the time being. As stated earlier, new statutes and regulations will be proposed in this area, which will no doubt lessen the number of complaints and conflicts.

#### Non-depository Lender Services

In addition to its *Banking and Securities* sections, the Division has added an additional third section to address *Non-depository Lending*. Activities of the new section include licensing, examining and investigating payday lenders, mortgage lenders and money service businesses—which includes money transmitters, check cashers, and currency exchange businesses. A new federal law requires the state to revise its mortgage lending statutes to include certain requirements, as well as to participate in a Nationwide Mortgage Licensing System and Registry (NMLSR). The Division must be able to interface electronically with the NMLSR by July of 2009, with a potential one-year extension. The Division must revise its mortgage lending statutes and regulations and become fully compliant with the federal law.

#### Personnel Issues

Staff recruitment, hiring and retention continue to be major challenges. The completion of a salary study will be the first step in resolving pay issues.

### **Significant Changes in Results to be Delivered in FY2010**

State and federal statutory requirements will be met and results delivered will be achieved with greater efficiency.

## Major Component Accomplishments in 2008

- Conducted 44 examinations of depository and non-depository institutions using approximately 2,500 examiner hours.
- Approved the acquisition of a state trust company by an out-of-state purchaser.
- Drafted and filed new trust regulations to implement the Revised Alaska Trust Company Act.
- Approved the merger of national bank into a state bank.
- Issued a Certificate of Authority to three institutions to relocate branch offices.
- All bank examiners completed Respectful Workplace training in accordance with the department mandate.
- Distributed the 2007 report on Business Industrial Development Corporations to the Legislature.
- Registered two banks under the Model Foreign Bank Act.
- Conducted investigations of consumer complaints, and enforcement actions against unlicensed entities.
- During FY08 the Division approved 5,866 registered representatives and 210 registered agents, purged and terminated 616 registered representatives and 30 registered agents, and denied 1 registered representative.
- The Division registered 5,169 mutual fund filings (including renewals), and processed 283 exemptions.
- The Division processed 35 ANCSA complaints in FY08.
- The Division collected over \$12.5 million in fees in FY08.
- The Division participated with AARP for education outreach in 13 communities across Alaska. The Division provided a grant from the Investor Protection Trust (IPT) to AARP in the amount of \$75,000. The grant covers production of course material, site reservations, and travel costs. The Division is working on a new series of brochures for the public to cover a variety of consumer-related information.

## Statutory and Regulatory Authority

AS 06	Financial Institutions
AS 10.13	Business and Industrial Development Corporation Act
AS 34.55	Land Sales Act
AS 45.55 and AS 45.57	Securities
3 AAC 01, 02, 03, 06, 07, 12, 13 & 14	Financial Institutions
3 AAC 08	Securities

### Contact Information

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### Banking and Securities Component Financial Summary

*All dollars shown in thousands*

	FY2008 Actuals	FY2009 Management Plan	FY2010 Governor
<b>Non-Formula Program:</b>			
<b>Component Expenditures:</b>			
71000 Personal Services	853.2	1,753.9	1,971.5
72000 Travel	82.9	116.6	141.6
73000 Services	943.9	1,090.5	1,092.9
74000 Commodities	66.3	16.4	53.4
75000 Capital Outlay	16.0	63.0	28.0
77000 Grants, Benefits	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
<b>Expenditure Totals</b>	<b>1,962.3</b>	<b>3,040.4</b>	<b>3,287.4</b>
<b>Funding Sources:</b>			
1002 Federal Receipts	0.0	250.0	250.0
1156 Receipt Supported Services	1,962.3	2,790.4	3,037.4
<b>Funding Totals</b>	<b>1,962.3</b>	<b>3,040.4</b>	<b>3,287.4</b>

### Estimated Revenue Collections

Description	Master Revenue Account	FY2008 Actuals	FY2009 Management Plan	FY2010 Governor
<b>Unrestricted Revenues</b>				
Receipt Supported Services	51073	10,542.2	9,800.0	8,250.0
<b>Unrestricted Total</b>		<b>10,542.2</b>	<b>9,800.0</b>	<b>8,250.0</b>
<b>Restricted Revenues</b>				
Federal Receipts	51010	0.0	250.0	250.0
Receipt Supported Services	51073	1,962.3	2,790.4	3,037.4
<b>Restricted Total</b>		<b>1,962.3</b>	<b>3,040.4</b>	<b>3,287.4</b>
<b>Total Estimated Revenues</b>		<b>12,504.5</b>	<b>12,840.4</b>	<b>11,537.4</b>

**Summary of Component Budget Changes  
From FY2009 Management Plan to FY2010 Governor**

*All dollars shown in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2009 Management Plan</b>	<b>0.0</b>	<b>250.0</b>	<b>2,790.4</b>	<b>3,040.4</b>
<b>Adjustments which will continue current level of service:</b>				
-Remove one-time funding received for legal costs	0.0	0.0	-180.0	-180.0
-FY2010 Wage and Health Insurance Increases for Bargaining Units with Existing Agreements	0.0	0.0	39.0	39.0
<b>Proposed budget increases:</b>				
-Implementation of 3rd year fiscal note for HB 162 (Mortgage Lending)	0.0	0.0	208.0	208.0
-Continue one-time funding received for legal costs	0.0	0.0	180.0	180.0
<b>FY2010 Governor</b>	<b>0.0</b>	<b>250.0</b>	<b>3,037.4</b>	<b>3,287.4</b>

**Banking and Securities  
Personal Services Information**

Authorized Positions			Personal Services Costs	
	<u>FY2009</u> <u>Management</u> <u>Plan</u>	<u>FY2010</u> <u>Governor</u>		
Full-time	20	22	Annual Salaries	1,327,579
Part-time	0	0	COLA	52,919
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	692,363
			<i>Less 4.89% Vacancy Factor</i>	(101,361)
			Lump Sum Premium Pay	0
<b>Totals</b>	<b>20</b>	<b>22</b>	<b>Total Personal Services</b>	<b>1,971,500</b>

**Position Classification Summary**

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Administrative Assistant I	0	0	1	0	1
Administrative Clerk III	0	0	1	0	1
Business Reg Examiner	1	0	2	0	3
Division Director	1	0	0	0	1
Financial Instit Exam I	0	0	1	0	1
Financial Instit Exam II	2	0	0	0	2
Financial Instit Exam III	2	0	3	0	5
Financial Instit Exam IV	0	0	1	0	1
Investigator III	1	0	0	0	1
Law Office Assistant I	0	0	1	0	1
Securities Examiner I	1	0	1	0	2
Securities Examiner II	3	0	0	0	3
<b>Totals</b>	<b>11</b>	<b>0</b>	<b>11</b>	<b>0</b>	<b>22</b>